

Conway Planning Board (PB)

January 02, 2020

Minutes – Meeting

Members Present: Beth Girshman (Chair), Joseph Strzegowski (Vice-Chair), Mary McClintock, Bill Moebius, Jennifer Mullins

Other attendees: Alexis Fedorjaczenko (staff), James Gruber (Pro Terra Design Group), Susan Fentin, Gary Fentin, Ellen Tinen, Dan Tinen, Samantha Fabian, Daniel Potter, Grace Larson, Sue Bridge, Mark Silvermn, Peter Jeswald, Phyllis Jeswald, Bob Armstrong (Select Board), Kate French, David DeLucca, Walter Goodridge, Katherine MacColl, Wilder McCoy, Philip Kantor (Select Board), Andy Jaffe, Gisele Litalieu, Shelby Downey, Dan Potter, David Potter, Lisa Gustavsen, Mary Irwin, Bill Haines, Cecil Antes, John Moore, James Cabrul, Randall Williams, Peter Gill, Thomas Hutcheson (Town Administrator), Mike Kirkalonas, Carlos Rivera, Lucy Anderson

Location: Conway Town Hall, GP room

Meeting called to order at 6:00 pm

1. Introductions. Beth explained the process and purpose of the meeting. There was a question from Gary Fentin about whether this meeting is a continuation of the Public Hearing: Beth explained that it is not, the hearing was closed on December 19 and this is a regular meeting at which the Roaring Glen Farms proposal will be considered, with questions asked by the Planning Board and an opportunity for public comment. Joe reminded the attendees that the Planning Board's focus is on Conway Bylaws. Mary added that there have been several issues brought up that do not relate to the criteria of the local town bylaw.
2. Minutes from the meeting and hearing on December 17, 2019, were reviewed. Motion by Joe to approve minutes; seconded by Jennifer. Motion passes, 4-0-1 with Mary abstaining because she had been absent. Minutes from the hearing on December 19, 2019, were reviewed. Motion by Mary to approve minutes; seconded by Joe. Motion passes, 5-0-0.
3. Vertex Tower Assets wireless tower Special Permit Application
 - a. Beth said the application was received Dec 20. She followed up with several consultants and heard back from two, both of whom would be acceptable.
 - b. Joe checked with the Building Commissioner – he is ok with signed drawings.
 - c. Beth said next thing to do is set a date for the Public Hearing. She thinks January will be busy but the applicant cannot come to February 6 so Beth proposes the Planning Board meet on February 13 (not a regular meeting date). This will be a joint meeting with the Zoning Board of Appeals if possible (there was discussion with Mark Silverman who was present from the ZBA about scheduling of the meeting and of the balloon test).
 - d. Joe explained that the site of the proposal is the Plasse property, the first driveway in Conway at 1384 S. Deerfield Road.
4. Annual report and actions for spring town meeting.

- a. There was discussion about who would do the report – Jennifer volunteered. The deadline is mid-February.
5. Site Plan Review / Special Permit Application for Roaring Glen Farms, LLC
- a. Beth explained that the Planning Board would go through the Conway Bylaws section by section and would ask questions.
 - b. Section 11.4 B (regarding distance to locations where children congregate)
 - i. Discussion and questions about the site including ownership of adjacent parcels, property lines, and a right away or easement. Carlos Rivera provided information in response to the Board's questions. Beth said she sees an easement or a right of way as different than a property line (it is not their property), and Joe said it appears that stopping an activity is putting a burden on the property owner. There was disagreement from Gary Fentin who suggested asking Town Counsel. Mary said yes, they would ask Town Counsel to review the property lines and ownership. Gary asked if additional information could be submitted and the Planning Board indicated the next step was to ask Town Counsel.
 - ii. Discussion about the definition of children congregating. Joe said there is an example in the state guidelines that says an ice cream stand is not children congregating; in his thinking, he uses the idea of "assemble" to denote people who are gathering together for a particular purpose. Beth reiterated the language of the bylaws and what it does / does not include as far as language about children congregating. She believes the issue is how often and how regularly ... having a party with children in attendance is not the same, she said, as children congregating on a daily basis. Mary said that the Church of God presented information that they are licensed as a conference center and that there had a couple of events there in the fall; it is very recent that it's been used, but it has indeed been used. Carlos provided additional explanation. There was discussion; Mary said without clarity about the easement question, there is little more to discuss. Mary said she sees the conference center as "existing" and that it applies to all ages, so it does meet the definition of "children congregate."
 - c. Mary asked about site screening in Section 11.5 C and there was discussion among the Planning Board. Beth asked if an order of condition would be that the trees would need to be maintained; Mary said yes, that would be a condition.
 - d. Beth said that it seems Section 11.5 A and B have been met; Joe said this can be double checked.
 - e. Mary shared thoughts on Section 11.5 D (Lighting & Security). She said they saw a preliminary but not final security plan and a lighting plan, and her question is about the role of the Planning Board regarding security because it seems the role is clear regarding lighting. She asked if there was information about lighting and Alexis read from the minutes of the Hearing. Discussion, and Beth asked a clarifying question: is there a security plan narrative that will be submitted to the state? Lisa said she believes that will be part of the next step of the process, which has not been scheduled. There was discussion about unknowns regarding the timing. Joe asked to clarify that there will be no guards and asked about where security notification goes. There was brief discussion, it appears the State Police, not the town.
 - f. Section 11.5 E (Noise and Odors) – Brief discussion about odor control and the subjectivity of measuring, and about possible conditions. Mary asked what level of

processing manufacturing would be happening in the buildings. John answered the crop is dried and packaged. Mary asked for and received confirmation that there will be no other processing such as making tinctures. Mary asked for information about the drying environment, and the odor potential coming out of the buildings where the crop is more concentrated in one space. John answered there is filtration odor control. John clarified that the building labeled as “extraction lab” is something for the future and not part of current plans; the lab now would have people trimming at tables. Beth stated for attendees that if there were additional proposed uses there would need to be another Special Permit. Beth states that, as the Board of Health said, that the area of odors seemed very speculative.

- g. Section 11.5 F (Hazardous Materials) – Beth said that at the hearing it was stated this is an organic farm, which is fantastic, but there are still pesticides used in organic farming allowed under state regs and asked for more detail about what would be used. Beth asked John and Lisa if there is no intention to use any of the material types listed in Section F. John confirmed that everything has to be OMRI certified. The Planning Board explained they still need the information.
 - h. Section 11.5 G (Driveways) and H (Signage) – there were no questions.
 - i. Section 11.5 I (Buildings) – Joe asked the area of the two hoop buildings. John said they are 30 x 96 for a square footage of 2,880 each.
 - j. Section 11.5 J (Cultivation) and K (Energy efficiency) – there were no questions.
 - k. Section 11.5 L (Water Efficiency) – Beth stated that there were concerns from abutters. Mary asked for the irrigation plan during a draught. John said drop irrigation as close to the soil as possible to stop evaporation. Joe asked if the applicant would be amenable to metering the water for the new well, because it would be interesting to get some data. John said they would absolutely look into it. Mary said that drip irrigation is efficient.
 - l. Section 11.5 O (Site Plan Review) – Mary and Beth discussed that there did not seem to be a map showing distances as outlined in this section. John Moore asked for clarification and the Planning Board explained.
 - m. Section 11.5 P (Change in license or owner) – Joe said this language mimics the state law, and the Planning Board needs to know who are the legal owners and if there are any other parties. Lisa and John answered no, there are not any other parties besides them.
 - n. Section 11.5 Q (Change of Ownership) – Joe asked about the requirements for an LLC ownership, and asked Gary Fentin about the requirements for an LLC. After general discussion the Planning Board agreed they would ask Town Counsel.
 - o. Section 11.6 Expiration – There was discussion among Planning Board members that the five-year period had been set to match the host-community agreement.
6. The floor was opened for public comment on the Roaring Glen Farms proposal. Beth asked people who speak offer new information or questions, not things already raised.
- a. Mike Kirkalonas, Roaring Brook Road – Stated that he is disappointed with the Town of Conway and their communication; he has signed up on the town website several times, and has not received information. Mike said he grew up in town and that the pond was used a lot by kids and was very active. He said considering this, he thinks the Planning Board should be looking hard at the proposal.
 - b. Andy Jaffe, Academy Hill Road – Stated he thought it was rude of the applicant to leave. Beth and Mary explained that comments about the personalities or behavior of

the applicants are not a criteria for the planning board. Andy said he wanted to ask if there is any record of John Moore having talked to Carlos or being aware of the nature of the easement when he brought the property.

- c. Carlos Rivera – Stated he has a few concerns. First, he feels the proposal is a public safety concern because Mr. Moore has been hostile. Beth said the Planning Board has received a number of comments from people concerned about these issues, and that they are not a criterion in the Bylaws. Beth explained that the police, the Select Board, and the Cannabis Control Commission -- which has not yet issued a license for this operation – are other venues to raise these concerns.
- d. Peter Jeswald, Old Cricket Hill Road – States that he assumes there are other sections of the bylaw that the Planning Board has purview over such as “is it a good fit for the town.” Joe explained that yes, he has to comply with other sections of the bylaw and Mary clarified (driveways, soapmaking and other prohibited activities). Peter also said he don’t think it says congregate has to be five days a week, that it’s Beth’s interpretation. Beth said the intent in her mind was not casual grouping.
- e. Phil Kantor, River Street – States he wanted to address a couple of the points made by other people. Phil said that state regulations state the purpose of lighting is only for surveillance purposes. He also said that the bylaw says “except for outdoor cultivation” in the odor section.
- f. Gary Fentin, Roaring Brook Road – Stated that they are talking about fear and treatment of people that affects their health, safety, and general welfare. He feels this project is beyond the scope of what was intended. He was also upset to not have had notice. Mary explained all of the things the Planning Board did to get the word out about the Public Hearing. Gary said this is very hard.
- g. Susan Fentin, Roaring Brook Road – Asked the Planning Board to look at Section 11.1 (Purpose and Intent) and read the language of this section. Susan says they are terrified about safety issues as a homeowner in the area, and that another concern is property values. Susan said she has read that property values go down.
- h. Lucy Anderson, Roaring Brook Road – Stated that she is terrified and explained her proximity to the site. She says she is incurably ill. She said she thinks it’s fair to ask more questions about the aquifers and smell. She said that the neighbors say there are a lot of people investing in the proposal, and she asked the Planning Board to dig deeper. She says she has spoken to the Police. She says why can’t they put the proposal at the house of someone who supports the proposal. She asked that they require the applicants to make studies.
- i. James Cabrul, Reeds Bridge Road – Stated that he lived on Roaring Brook Road when he first moved to Conway. He said most people in Conway enjoy more than their yard. He said the last time he was in the neighborhood he felt the emergy was different. He also feels it’s a huge amount of water and he thinks the water should be looked at. The product he is growing is for recreational use. He said he’s a medical user, and that medical is grown indoors which eliminates a lot of the other issues.
- j. Sue Bridge, Conway – Read a note that has been sent to the Planning Board stating that she is not opposed to marijuana in Conway, but that she is concerned about the climate of the proposal.
- k. David DeLucca, Roaring Brook Road – Stated that one member of the Planning Board seemed to laughingly dismiss objections. He said he is new to town and he did not vote for the bylaw or for marijuana in Massachusetts.

- I. Samantha Fabian, Roaring Brook Road – Asked: If the Cannabis Control Commission does not approve the proposal then they can't do it? The answer is yes. Mary clarified a license from the state, host community agreement, and following any laws of the town are requirements. Samantha suggested the neighbors could work together on this, and also asked for clarification about the proposal being commercial. Mary explained that marijuana is not considered agriculture for the purposes of zoning (and thus is not excepted from certain requirements as other agriculture is). Mary described in general the way the bylaws of Conway work.
 - m. Katherine McColl, South Deerfield Road – Stated that she does not trust that the applicant will follow his own plan, and she asked who is in charge of making sure that he is in compliance. Jennifer explained that violations are complaint-based. Joe explained that for the local bylaw, the enforcement would be local. She asked if there are complaints what would be done. Joe said that the Planning Board would be responsible for enforcing via the appropriate party. Katherine asked if the Special Permit can be rescinded if he violates the conditions. The answer is yes.
 - n. Walter Goodridge, South Deerfield Road – Stated that he thinks it's important to get specific information on odor control. Is it possible to stipulate more detail, such as what kind of filters? Mary said the Planning Board needs more clarification about what they have jurisdiction over with regards to odor.
 - o. There was a question from the audience about when a decision would be issued. Mary said there is no set date. Beth said the Planning Board is taking their time. Joe said there are 90 days from the close of the hearing. Mary explained that agendas are posted at least 48 hours ahead outside Town Offices, and this proposal will be on the agenda until a decision is rendered.
 - p. Peter Jeswald – Asked if the Planning Board could ask the applicant to hire consultants to calculate the amount of water the system would use. Joe said yes, it is possible for the Planning Board to hire a consultant and charge the applicant. There was discussion.
7. Public Questions concluded at 7:55 pm. The Planning Board then discussed the list of questions for Town Counsel and other matters related to the Roaring Glen Farms proposal including the possibility of hiring a consultant for water or other technical questions.
8. The Planning Board concluded its other business with a discussion about the Vertex Tower Assets wireless tower proposal. Beth stated that there are two consultants, one of whom is available for a wider range of dates, Mr. Goldstein. There was discussion. Motion by Mary to authorize Beth to ask Mr. Goldstein for a reference and a formal quote, and to share the quote with Attorney Parisi for the applicant; seconded by Jennifer. Motion passes 5-0-0.

Motion by Mary to adjourn the meeting; seconded by Jennifer. Motion passes, 5-0-0.

Adjourned at 8:40 pm.

Respectfully submitted,
Alexis Fedorjaczenko